

IN RE: PETITION FOR ZONING VARIANCE  
N/S Old Frederick Road, 265' W  
of the c/l of Lee Drive  
(2006 Old Frederick Road)  
1st Election District  
1st Councilmanic District  
Ellwood Building Corporation  
Petitioner

\* BEFORE THE  
\* DEPUTY ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 90-444-A

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance to permit a window to tract boundary setback of 30 feet in lieu of the required 35 feet for Lots 1 through 20, and a building to tract boundary setback of 10 feet in lieu of the required 30 feet for Lot 26, all as more particularly described in Petitioner's Exhibit 1.

The Petitioner, by Ellwood A. Sinsky, President, appeared and testified. Also appearing on behalf of the Petition was William Woody, Registered Land Surveyor, and Peter McDonnell, Project Engineer, both with KCW Consultants, Inc. There were no Protestants.

Testimony indicated that the subject property, known as 2006 Old Frederick Road, consists of 5.33 acres more or less zoned D.R. 5.5 and is presently undeveloped. Petitioner testified the subject site is proposed for development as 26 single family dwelling units. However, as a result of its narrow width, Mr. Sinsky testified that development of the subject property in strict compliance with the zoning regulations would result in practical difficulty and unreasonable hardship. Petitioner testified that the requested window to tract boundary variance for Lots 1 through 20 is necessary in order to place windows in the proposed homes due to the lot depths. Additionally, the evidence presented indicated that due to the location of existing improvements on the adjoining property, no detriment

to the health, safety or general welfare of the community would result if the relief requested for Lot 26 were granted. Mr. Sinsky indicated that the subject property was sold to him by the owner of the property adjoining the side of the variance requested for Lot 26. Petitioner argued that the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community. To support his testimony, Petitioner introduced photographs of the subject property and surrounding development. Further testimony indicated that CRG approval of the subject development had been granted, subject to approval of the requested variances. Petitioner testified that he is working with the Office of Planning to provide landscaping where appropriate, including, but not limited to, the storm water management area and at the end of the cul-de-sac to prevent car lights from penetrating into the adjoining town-house development.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. *McLean v. Soley*, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

*Anderson v. Bd. of Appeals, Town of Chesapeake Beach*, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances are granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variances requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 31<sup>st</sup> day of May, 1990 that the Petition for Zoning Variance to permit a window to tract boundary setback of 30 feet in lieu of the required 35 feet for Lots 1 through 20, and a building to tract boundary setback of 10 feet in lieu of the required 30 feet for Lot 26, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

- 1) The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2) Prior to the issuance of any permits, Petitioner shall submit a landscaping plan for approval by the Deputy Director of Planning. A copy of the approved plans shall be submitted to the Zoning Commissioner's Office for inclusion in the case file.
- 3) Prior to the issuance of any occupancy permits for the subject dwellings, Petitioner shall have completed to the extent possible, as determined by the Deputy Director of Planning, the required landscaping, including, but not limited to, around the storm water management area and the end of the cul-de-sac.

#### PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

**90-444-A**

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1801.2.C.2.a To allow 30 ft. in lieu of 35 ft. window to tract boundary for Lots 1-20 and To allow 10 ft. in lieu of 30 ft. building to tract boundary for Lot 26.

See Attached

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: Ellwood Building Corporation  
(Type or Print Name)  
Signature: Ellwood A. Sinsky, President  
Address: 2416 Velvet Valley Way, 363-6644  
City and State: Owings Mills, Maryland 21117  
Atorney for Petitioner: 2416 Velvet Valley Way, 363-6644  
Address: Owings Mills, Maryland 21117  
City and State: Owings Mills, Maryland 21117  
Atorney's Telephone No.: 363-6644

ORDERED By The Zoning Commissioner of Baltimore County, this 4 day of April, 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 22 day of May, 1990, at 9:30 o'clock A.M.

J. Robert Haines  
Zoning Commissioner of Baltimore County

WINDOW TO TRACT BOUNDARY: The narrow width of this 5+ acre tract makes subdivision into lots of practical depth for an acceptable dwelling on a double sided street impossible without a reduction of the window to tract boundary from 35' to 30'. Although the rear yard depth of 30' is permissible under the regulations, the window requirement of 35' appears to be contradictory, particularly in cases of rear yard to rear yard.

BUILDING TO TRACT BOUNDARY: Reduction of required 30' sideyard to tract boundary to 10' permits better achievement of density for the one subject unit as this request permits the facing of the dwelling to the street. The sideyard reduction is to the rear of the adjoining property and in no way affects the adjoining owner.

In the above requests, the criteria for area variances based on "practical difficulty" is met without injury to public health, safety and general welfare.

Douglas L. Kennedy, P.E.  
William K. Woody, L.S.

KCW Consultants, Inc.  
Civil Engineers and Land Surveyors  
1777 Reisterstown Road  
Commerce Centre, Suite 175  
Baltimore, Maryland 21208

(301) 484-0894 / 484-0963

Upman Property  
2006 Old Frederick Road,  
First Election District,  
Baltimore County, Maryland

March 9, 1990

DESCRIPTION TO ACCOMPANY PETITION FOR ZONING VARIANCES.

BEGINNING at a point on the North side of Old Frederick Road, 50 feet wide, at a distance of 265 feet West of the centerline of Lee Drive, 50 feet wide; thence  
(1) South 75 degrees 28 minutes 20 seconds West 96.71 feet;  
(2) South 70 degrees 56 minutes 23 seconds West 82.55 feet;  
(3) North 05 degrees 58 minutes 43 seconds East 849.20 feet;  
(4) North 19 degrees 13 minutes 13 seconds East 454.40 feet;  
(5) South 70 degrees 49 minutes 17 seconds East 100.60 feet;  
(6) South 05 degrees 01 minutes 52 seconds West 1028.92 feet;  
(7) North 86 degrees 21 minutes 17 seconds West 80.00 feet and  
(8) South 02 degrees 55 minutes 17 seconds East 169.74 feet to the point of beginning, containing 228,577 square feet or 5.25 acres more or less.

BEING that lot of ground which by Deed dated January 8, 1990 and recorded among the Land Records of Baltimore County in Liber S.W. 8391, Folio 180 was granted and conveyed by John P. Stable to Ellwood Building Corporation. Also known as No. 2006 Old Frederick Road and located in the First Election District.

Item # 509

- 4) Compliance with all Zoning Plans Advisory Committee comments submitted hereto and made a part of the record.
- 5) When applying for a building permit, the site plan and landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

AMN:bjs

A. M. NASTAROWICZ  
ANN M. NASTAROWICZ  
Deputy Zoning Commissioner  
for Baltimore County

Baltimore County  
Zoning Commissioner  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

receipt  
Account: R-001-6150  
Number: 1688

Date: 3/12/90

	QTY	PRICE
PUBLIC HEARING FEES		
010 - ZONING VARIANCE (1RL)	1 x	\$35.00
LAST NAME OF OWNER: ELLWOOD BLDING		TOTAL: \$35.00

Cashier Validation: B B 153\*\*\*\*\*350016 81387  
Please make checks payable to: Baltimore County

#### CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 1st Date of Posting: April 30, 1990  
Posted for: Variance  
Petitioner: Ellwood Building Corporation  
Location of property: N/S Old Frederick Road, 265' W. of c/l of Lee Drive, 2006 Old Frederick Road  
Location of Signs: N/S of Old Frederick Road in front of subject property  
Remarks: Property  
Posted by: J. J. Haines Date of return: May 3, 1990  
Number of Signs: 1



File

A:CRG26.TXT

PLAT TO ACCOMPANY  
ZONING VARIANCE OR SPECIAL HEARING

UPMAN PROPERTY  
1<sup>ST</sup> ELECTION DISTRICT  
BALTIMORE COUNTY, MARYLAND

SCALE: 1"=50'	JANUARY, 8, 1990	DWG. 1-21
PROPERTY ADDRESS: #2006 OLD FREDERICK ROAD		